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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,046	12/29/2003	William J. Boyle	ACS 66147 (1738C)	7407

24201 7590 09/06/2006

FULWIDER PATTON
6060 CENTER DRIVE
10TH FLOOR
LOS ANGELES, CA 90045

EXAMINER

MACNEILL, ELIZABETH

ART UNIT	PAPER NUMBER
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3767

DATE MAILED: 09/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)	
10/749,046	BOYLE ET AL.	
Examiner	Art Unit	
Elizabeth R. MacNeill	3767	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 94-107 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 94-107 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/06,12/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 85-93 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on July 20, 2006.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 97 and 99 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrasing "the depth of the valley region on the filter edge is a progressively larger dimension from an adjoining valley" is unclear and would be structurally impossible in a circular filter element construction as disclosed in the drawings. The same argument applies to Claim 99, where peak is substituted for valley.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

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only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 94-96,98,and 100-107 are rejected under 35 U.S.C. 102(e) as being anticipated by DANIEL (US #6,171,327).

Regarding claim 94, Daniel teaches a filter element (21) having a plurality of openings (23) and a reservoir (tip portion of 21) with a filter edge having a pattern of peaks and valleys (Fig 2, 24 and 25)

Regarding claim 96, the peak regions are attachable to struts (25) of a strut assembly (Fig 2)

Regarding claims 98 and 100, the depth of the peaks and valleys is the same. (Fig 2)

Regarding claims 95,101 and 105-107, see Figs 7 and 8 for a filter with rounded peaks and valleys in an alternating pattern, where the dimensions of the valleys and peaks prevent them from being drawn into the catheter at the same time.

Regarding claims 102 and 103, the peaks are valleys are rounded (Fig 7,8)

Regarding claim 104, each valley has a different depth.

6. Claims 94,96,97,99,105, and 106 are rejected under 35 U.S.C. 102(e) as being anticipated by BROOME (US #6,152,946).

Regarding claim 94, Broome teaches a filter element (20) having a plurality of openings (40) and a reservoir (220) with a filter edge having a pattern of peaks and valleys (Fig 1, 28 and 36)

Regarding claim 96, the peak regions are attachable to struts (30) of a strut assembly (Fig 1)

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Regarding claims 97 and 99, previously rejected under USC 112, the peaks and valleys have different depths.

Regarding claims 105 and 106, the peaks and valleys are of varying height so as to allow the peaks to be withdrawn into the catheter at different times.

7. Claims 94,95, and 101-103 are rejected under 35 U.S.C. 102(e) as being anticipated by HUTER (US #6,575,995).

Regarding claims 94 and 101, Huter teaches a filter element (50) having a plurality of openings (56) and a reservoir (57) with a filter edge having a pattern of peaks and valleys (Fig 2)

Regarding claims 95,102 and 103, the filter edge is sinusoidal. (Fig 2)

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Pat #6,383,206, US Pat #6,793,666, US Pat #6,575,996.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth R. MacNeill whose telephone number is (571)-272-9970. The examiner can normally be reached on 7:00-3:30pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571)272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ERM

Erin M. Maclellan
8/17/06

KEVIN C. SIRMONS
SUPERVISORY PATENT EXAMINER

Kevin C. Sirmons